

Introduced by Senator Ridley-Thomas

February 23, 2007

An act to amend Section 12001 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 997, as introduced, Ridley-Thomas. Firearms.

Existing law generally defines firearms for regulatory purposes.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12001 of the Penal Code is amended to
2 read:
3 12001. (a) (1) As used in this title, the terms "pistol,"
4 "revolver," and "firearm capable of being concealed upon the
5 person" shall apply to and include any device designed to be used
6 as a weapon, from which is expelled a projectile by the force of
7 any explosion, or other form of combustion, and that has a barrel
8 less than 16 inches in length. These terms also include any device
9 that has a barrel 16 inches or more in length which is designed to
10 be interchanged with a barrel less than 16 inches in length.
11 (2) As used in this title, the term "handgun" means any "pistol,"
12 "revolver," or "firearm capable of being concealed upon the
13 person."

1 (b) As used in this title, “firearm” means any device, designed
2 to be used as a weapon, from which is expelled through a barrel,
3 a projectile by the force of any explosion or other form of
4 combustion.

5 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,
6 12073, 12078, 12101, and 12801 of this code, and Sections 8100,
7 8101, and 8103 of the Welfare and Institutions Code, the term
8 “firearm” includes the frame or receiver of the weapon.

9 (d) For the purposes of Sections 12025 and 12031, the term
10 “firearm” also shall include any rocket, rocket propelled projectile
11 launcher, or similar device containing any explosive or incendiary
12 material whether or not the device is designed for emergency or
13 distress signaling purposes.

14 (e) For purposes of Sections 12070, 12071, and paragraph (8)
15 of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section
16 12072, the term “firearm” does not include an unloaded firearm
17 that is defined as an “antique firearm” in Section 921(a)(16) of
18 Title 18 of the United States Code.

19 (f) Nothing shall prevent a device defined as a “handgun,”
20 “pistol,” “revolver,” or “firearm capable of being concealed upon
21 the person” from also being found to be a short-barreled shotgun
22 or a short-barreled rifle, as defined in Section 12020.

23 (g) For purposes of Sections 12551 and 12552, the term “BB
24 device” means any instrument that expels a projectile, such as a
25 BB or a pellet, not exceeding 6mm caliber, through the force of
26 air pressure, gas pressure, or spring action, or any spot marker gun.

27 (h) As used in this title, “wholesaler” means any person who is
28 licensed as a dealer pursuant to Chapter 44 (commencing with
29 Section 921) of Title 18 of the United States Code and the
30 regulations issued pursuant thereto who sells, transfers, or assigns
31 firearms, or parts of firearms, to persons who are licensed as
32 manufacturers, importers, or gunsmiths pursuant to Chapter 44
33 (commencing with Section 921) of Title 18 of the United States
34 Code, or persons licensed pursuant to Section 12071, and includes
35 persons who receive finished parts of firearms and assemble them
36 into completed or partially completed firearms in furtherance of
37 that purpose.

38 “Wholesaler” shall not include a manufacturer, importer, or
39 gunsmith who is licensed to engage in those activities pursuant to
40 Chapter 44 (commencing with Section 921) of Title 18 of the

1 United States Code or a person licensed pursuant to Section 12071
2 and the regulations issued pursuant thereto. A wholesaler also does
3 not include those persons dealing exclusively in grips, stocks, and
4 other parts of firearms that are not frames or receivers thereof.

5 (i) As used in Section 12071 or 12072, “application to purchase”
6 means any of the following:

7 (1) The initial completion of the register by the purchaser,
8 transferee, or person being loaned the firearm as required by
9 subdivision (b) of Section 12076.

10 (2) The initial completion and transmission to the department
11 of the record of electronic or telephonic transfer by the dealer on
12 the purchaser, transferee, or person being loaned the firearm as
13 required by subdivision (c) of Section 12076.

14 (j) For purposes of Section 12023, a firearm shall be deemed
15 to be “loaded” whenever both the firearm and the unexpended
16 ammunition capable of being discharged from the firearm are in
17 the immediate possession of the same person.

18 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,
19 12072, 12073, 12078, 12101, and 12801 of this code, and Sections
20 8100, 8101, and 8103 of the Welfare and Institutions Code,
21 notwithstanding the fact that the term “any firearm” may be used
22 in those sections, each firearm or the frame or receiver of the same
23 shall constitute a distinct and separate offense under those sections.

24 (l) For purposes of Section 12020, a violation of that section as
25 to each firearm, weapon, or device enumerated therein shall
26 constitute a distinct and separate offense.

27 (m) Each application that requires any firearms eligibility
28 determination involving the issuance of any license, permit, or
29 certificate pursuant to this title shall include two copies of the
30 applicant’s fingerprints on forms prescribed by the Department of
31 Justice. One copy of the fingerprints may be submitted to the
32 United States Federal Bureau of Investigation.

33 (n) As used in this chapter, a “personal handgun importer”
34 means an individual who meets all of the following criteria:

35 (1) He or she is not a person licensed pursuant to Section 12071.

36 (2) He or she is not a licensed manufacturer of firearms pursuant
37 to Chapter 44 (commencing with Section 921) of Title 18 of the
38 United States Code.

1 (3) He or she is not a licensed importer of firearms pursuant to
2 Chapter 44 (commencing with Section 921) of Title 18 of the
3 United States Code and the regulations issued pursuant thereto.

4 (4) He or she is the owner of a ~~pistol, revolver, or other firearm~~
5 ~~capable of being concealed upon the person~~ *handgun*.

6 (5) He or she acquired that ~~pistol, revolver, or other firearm~~
7 ~~capable of being concealed upon the person~~ *handgun* outside of
8 California.

9 (6) He or she moves into this state on or after January 1, 1998,
10 as a resident of this state.

11 (7) He or she intends to possess that ~~pistol, revolver, or other~~
12 ~~firearm capable of being concealed upon the person~~ *handgun* within
13 this state on or after January 1, 1998.

14 (8) The ~~pistol, revolver, or other firearm capable of being~~
15 ~~concealed upon the person~~ *handgun* was not delivered to him or
16 her by a person licensed pursuant to Section 12071 who delivered
17 that firearm following the procedures set forth in Section 12071
18 and subdivision (c) of Section 12072.

19 (9) He or she, while a resident of this state, had not previously
20 reported his or her ownership of that ~~pistol, revolver, or other~~
21 ~~firearm capable of being concealed upon the person~~ *handgun* to
22 the Department of Justice in a manner prescribed by the department
23 that included information concerning him or her and a description
24 of the firearm.

25 (10) The ~~pistol, revolver, or other firearm capable of being~~
26 ~~concealed upon the person~~ *handgun* is not a firearm that is
27 prohibited by subdivision (a) of Section 12020.

28 (11) The ~~pistol, revolver, or other firearm capable of being~~
29 ~~concealed upon the person~~ *handgun* is not an assault weapon, as
30 defined in Section 12276 or 12276.1.

31 (12) The ~~pistol, revolver, or other firearm capable of being~~
32 ~~concealed upon the person~~ *handgun* is not a machinegun, as defined
33 in Section 12200.

34 (13) The person is 18 years of age or older.

35 (o) For purposes of paragraph (6) of subdivision (n):

36 (1) Except as provided in paragraph (2), residency shall be
37 determined in the same manner as is the case for establishing
38 residency pursuant to Section 12505 of the Vehicle Code.

1 (2) In the case of members of the Armed Forces of the United
2 States, residency shall be deemed to be established when he or she
3 was discharged from active service in this state.

4 (p) As used in this code, “basic firearms safety certificate”
5 means a certificate issued by the Department of Justice pursuant
6 to Article 8 (commencing with Section 12800) of Chapter 6 of
7 Title 2 of Part 4, prior to January 1, 2003.

8 (q) As used in this code, “handgun safety certificate” means a
9 certificate issued by the Department of Justice pursuant to Article
10 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part
11 4, as that article is operative on or after January 1, 2003.

12 (r) As used in this title, “gunsmith” means any person who is
13 licensed as a dealer pursuant to Chapter 44 (commencing with
14 Section 921) of Title 18 of the United States Code and the
15 regulations issued pursuant thereto, who is engaged primarily in
16 the business of repairing firearms, or making or fitting special
17 barrels, stocks, or trigger mechanisms to firearms, or the agent or
18 employee of that person.